



UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

MICHAEL B. DOWLING
Clerk of Court

1132 Bishop Street, Suite 250L
Honolulu, HI 96813

AMY YOUNG
Chief Deputy Clerk

September 20, 2006

MEMORANDUM

TO: Bankruptcy Practitioners

SUBJECT: Amended Rule and Forms Effective 10/1/2006

Please take notice that an amended Interim Rule 1007 has been adopted by the bankruptcy court. In addition, new and amended forms have been approved. **All are effective October 1, 2006.** Fillable PDF versions of the forms will be available at the court's website.

Interim Rule 1007. On September 19, 2006, the Judicial Conference of the United States approved an amendment to rule 1007 of the "Interim Rules" prepared last year to implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). The Judicial Conference has recommended that bankruptcy courts adopt the amendment by way of a local rule or standing order. The United States Bankruptcy Court for the District of Hawaii has adopted the amended rule by administrative order today. The rule is effective October 1, 2006. The changes are summarized in the Committee Note:

Subdivision (b)(3) of the rule is amended to require the debtor to file an Official Form relating to the credit counseling requirement provided by the 2005 amendments to Section 109. Official Form 1 includes statements that warn the debtor of the consequences of failing to comply with the credit counseling requirement. The rule also provides that the debtor may file a statement that the debtor has received credit counseling but has not yet received a certificate from the credit counseling provider. Subdivision (c) is amended to permit the debtor to file the certificate and debt repayment plan within 15 days after the filing of the petition if a Rule 1007(b)(3)(B) statement is filed.

Exhibit "D". The Judicial Conference also approved a new form - Exhibit "D" to the petition - in conjunction with amended rule 1007. As described in the Committee Note:

Exhibit D replaces the section formerly labeled "Certification Concerning Debt Counseling by Individual/Joint Debtor(s)." Early cases decided under the 2005 amendments to the Bankruptcy Code indicate that individual debtors may not be aware of the requirement to obtain prepetition credit counseling, the few and very narrow exceptions to that requirement, or the potentially dire consequences to their efforts to obtain bankruptcy relief if they fail to complete the requirement. Accordingly, page 2 of the petition

instructs individual debtors to attach a completed Exhibit D and makes it clear that each spouse in a joint case must complete and attach a separate Exhibit D. Exhibit D itself includes a warning about the requirement to obtain counseling and the consequences of failing to fulfill this requirement. It further provides checkboxes and instructions concerning the additional documents that are required in particular circumstances, in order to minimize the number of cases which the court must dismiss for ineligibility.

Official Form 1 - Voluntary Petition. In addition to a change to the “Certification Concerning Debt Counseling . . .” explained above, there are changes dealing with the statistical information requested on page 1 (e.g., “tax-exempt” instead of “nonprofit” and fewer categories under estimated assets and liabilities).

Official Form 5 - Involuntary Petition. The form now contains additional entries for information regarding the debtor.

Official Form 6 - Schedules of Assets and Liabilities. The “Statistical Summary of Certain Liabilities” has been added to collect information needed to prepare statistical reports required under 28 U.S.C. § 159, which was enacted as part of BAPCPA.

Official Form 6 - Schedules D, E, F, I, J. Various changes.

Official Form 22A - Chapter 7 Means Test. The phrase “in default” with respect to “Other payments on secured claims” has been deleted in Line 43 because the debtor may be required to make other payments to a creditor even when the debt is not in default.

Official Form 22C - Chapter 13 Disposable Income Calculation. The phrase “in default” with respect to “Other payments on secured claims” has been deleted in Line 48 because the debtor may be required to make other payments to a creditor even when the debt is not in default.

Official Form 23 - Certification Concerning Financial Management Course. The form is amended to direct each individual debtor, including both spouses in a joint case, to file a separate certification and to provide the certificate number of the certificate of completion issued to the debtor by the approved personal financial management counselor. The form also is amended to include the deadlines for filing the certification in cases under chapters 7 and 13 and to instruct the debtor that the form is not to be used to file the certificate provided by the debtor’s prepetition credit counselor. Note: the Certificate of Debtor Education need not be attached if the certificate number is stated on the certification form.

B104 - Adversary Proceeding Cover Sheet. The list of causes of action has been expanded greatly.

/s/ Michael B. Dowling
Clerk